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SENATE BILL 50

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Mary Jane M. Garcia

AN ACT

RELATING TO UTILITIES; PROHIBITING ENCROACHMENT INTO AREA
SERVED BY CERTAIN UTILITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. COMMUNITY WATER AND SEWER SERVICE ASSOCIATIONS
RECEIVING FINANCIAL ASSISTANCE--SERVICE AREA--PROHIBITION OF
ENCROACHMENT INTO SERVICE AREA--REMEDIES.--

A. During the period an association remains
indebted to a state agency or instrumentality, including the
New Mexico Finance Authority, pursuant to a state financial
assistance program, or a period during which a state agency or
instrumentality, including the New Mexico Finance Authority,
has a security interest in the property of the association
pursuant to a state financial assistance program, its service
or area served shall not be curtailed or limited by the

underscored material = new
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1 following actions, and the actions are prohibited:

2 (1) provision of water service by a political
3 subdivision into all or part of the area served by the
4 association;

5 (2) the granting of a franchise or a
6 certificate of public convenience and necessity to another
7 utility to provide a service identical or similar to that
8 provided by the association in the area served by the
9 association;

10 (3) imposition of a requirement for the
11 association to obtain a franchise because of actions described
12 in Paragraph (1) of this subsection; or

13 (4) the extension or offering of services by
14 another utility identical to those of the association in the
15 area served by the association whether or not the services are
16 extended or offered pursuant to a franchise or certificate
17 granted pursuant to Paragraph (2) of this subsection.

18 B. An association may bring an action in the
19 district court of the county in which the area served by the
20 association is located.

21 C. As used in this section:

22 (1) "association" means an entity created
23 pursuant to state law for the purpose of providing water or
24 liquid waste disposal services, or both, to rural residents of
25 unincorporated communities;

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(2) "state financial assistance program" means an activity authorized by state law to be carried out by a state agency or instrumentality, including the New Mexico Finance Authority, in which loans or grants of state funds are made to an association for the purpose of financing the provision of water or liquid waste disposal services in whole or in part to rural residents of unincorporated communities; and

(3) "utility" means an entity, whether or not regulated as a public utility pursuant to state law, that has authority to provide water or liquid waste disposal services to the public.